

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3
4 IN RE: NEW ENGLAND : MDL No. 2419

5 COMPOUNDING PHARMACY, INC. : Docket No.:

6 PRODUCTS LIABILITY LITIGATION: 1:13-md-2419(RWZ)

7 -----:

8 This document relates to: :

9 : :

10 ARNETTA, ET AL v. BOX HILL :

11 SURGERY CENTER, LLC, ET AL :

12 No. 1:14-cv-14022-RWZ :

13 : :

14 BOWMAN, ET AL v. BOX HILL :

15 SURGERY CENTER, LLC, ET AL :

16 No. 1:14-cv-14028-RWZ :

17 : :

18 DAVIS, ET AL v. BOX HILL :

19 SURGERY CENTER, LLC, ET AL :

20 No. 1:14-cv-14033-RWZ :

21 : :

<p style="text-align: right;">Page 2</p> <p>1 DREISCH, ET AL v. BOX HILL : 2 SURGERY CENTER, LLC, ET AL : 3 No. 1:14-cv-14029-RWZ : 4 : 5 FARTHING, ET AL v. BOX HILL : 6 SURGERY CENTER, LLC, ET AL : 7 No. 1:14-cv-14036-RWZ : 8 : 9 KASHI, ET AL v. BOX HILL : 10 SURGERY CENTER, LLC, ET AL : 11 No. 1:14-cv-14026-RWZ : 12 : 13 TORBECK, ET AL v. BOX HILL : 14 SURGERY CENTER, LLC, ET AL : 15 No. 1:14-cv-14023-RWZ : 16 : 17 HANDY, ET AL v. BOX HILL : 18 SURGERY CENTER, LLC, ET AL : 19 No. 1:14-cv-14019-RWZ : 20 ----- 21</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: 2 ON BEHALF OF PLAINTIFFS ARNETTA, BOWMAN, 3 DAVIS, DREISCH, FARTHING, KASHI, TORBECK 4 AND HANDY: 5 Law Offices of Peter G. Angelos, P.C. 6 GLENN E. MINTZER, ESQUIRE. 7 gmintzer@lawpga.com. 8 SHARON L. HOUSTON, ESQUIRE. 9 100 North Charles Street. 10 Baltimore, Maryland 21201. 11 (410) 649-2000 12 13 ON BEHALF OF PLAINTIFF ROZEK: 14 Cohen, Placitella & Roth, P.C. 15 HARRY M. ROTH, ESQUIRE. 16 hroth@cprlaw.com. 17 SILVIO A. TRENTALANGE, ESQUIRE. 18 strentalange@cprlaw.com. 19 2001 Market Street, Suite 2900. 20 Philadelphia, Pennsylvania 19103. 21 (215) 567-3500</p>
<p style="text-align: right;">Page 3</p> <p>1 Deposition of STEVEN PAUL COHEN, M.D., 2 was taken via Veritext Virtual on Wednesday, March 3 1, 2017, commencing at 10:10 a.m., at Pessin Katz 4 Law, P.A., 10500 Little Patuxent Parkway, Suite 5 650, Columbia, Maryland, before MICHELE D. LAMBIE, 6 Notary Public. 7 ----- 8 9 10 11 12 ALSO PRESENT; Ashley E. Geno, Esquire 13 (via telephone) 14 Reported By: 15 Michele D. Lambie, CSR-RPR 16 17 18 19 20 21</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES CONTINUED: 2 ON BEHALF OF THE DEFENDANTS: 3 Pessin Katz Law, P.A. 4 GREGORY K. KIRBY, ESQUIRE. 5 gkirby@plaw.com. 6 901 Dulaney Valley Road. 7 Suite 400. 8 Towson, Maryland 21204. 9 (410) 938-8800 10 11 12 13 14 15 16 17 18 19 20 21</p>

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<p>8 EXHIBIT INDEX</p> <p>9 MAR</p> <p>STEVEN PAUL COHEN, M.D.</p> <p>10 3 Expert Report of Steven Cohen, M.D. 7</p> <p>11 15 Packing Slips 7</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>	<p>10 Q. Okay.</p> <p>11 A. So I can tell you some of them.</p> <p>12 Q. Okay. I think it will be good for us to</p> <p>13 pause a little bit. I think I heard the court</p> <p>14 reporter say something, you know, sometimes it's</p> <p>15 slow, so I want to make sure that you have answered</p> <p>16 the question and that also I'm going to ask you to</p> <p>17 wait to make sure I have completed my question,</p> <p>18 okay?</p> <p>19 A. Okay.</p> <p>20 Q. Were you finished answering the question?</p> <p>21 A. I have reviewed some of the medical</p>
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<p>1 PROCEEDINGS</p> <p>2 (Whereupon, Cohen Deposition Exhibit</p> <p>3 Number 3, Expert Report of Steven Cohen, M.D.,</p> <p>4 premarked for identification.)</p> <p>5 (Whereupon, Cohen Deposition Exhibit</p> <p>6 Number 15, Packing Slips, premarked for</p> <p>7 identification.)</p> <p>8 STEVEN PAUL COHEN, M.D.,</p> <p>9 the Deponent, called for examination by the</p> <p>10 Plaintiffs, being first duly sworn to tell the</p> <p>11 truth, the whole truth, and nothing but the truth,</p> <p>12 testified as follows:</p> <p>13 EXAMINATION</p> <p>14 BY MR. ROTH:</p> <p>15 Q. Dr. Cohen, my name is Harry Roth. I</p> <p>16 represent one of the Plaintiffs here, the Estate of</p> <p>17 Brenda Rozek, and I'm going to be asking you some</p> <p>18 questions as you know. How are you doing?</p> <p>19 A. I'm doing okay. Thanks for asking.</p> <p>20 Q. Thank you for accommodating, and</p> <p>21 Mr. Kirby, thank you as well, for accommodating my</p>	<p>1 records. I can tell you some of the names. I</p> <p>2 can't remember each individual record.</p> <p>3 Q. Do you remember reviewing Brenda Rozek's</p> <p>4 records?</p> <p>5 MR. KIRBY: And I'll just object for the</p> <p>6 record. To the extent that he's a common-issue</p> <p>7 expert, I don't know where the questioning is</p> <p>8 going, but that's -- I'll just object to that.</p> <p>9 He's not a case-specific expert at this point</p> <p>10 necessarily.</p> <p>11 MR. ROTH: Understood.</p> <p>12 THE WITNESS: I believe I reviewed her</p> <p>13 records several months ago. In the past two days,</p> <p>14 I've reviewed about five or six other records, and</p> <p>15 hers was not one of those.</p> <p>16 BY MR. ROTH:</p> <p>17 Q. Did you see in any of the records that</p> <p>18 you reviewed, either months ago or in the last</p> <p>19 couple of days, any indication in Dr. Bhambhani's</p> <p>20 notes as to a particular medical need of one of her</p> <p>21 patients that would require a compounded steroid be</p>

<p style="text-align: right;">Page 18</p> <p>1 actually has the names of the states. Thank you.</p> <p>2 BY MR. ROTH:</p> <p>3 Q. In those cases where you have served as</p> <p>4 an expert, and not just those where you testified,</p> <p>5 can you tell us by percentage or otherwise how many</p> <p>6 times you have expressed an opinion -- well, you've</p> <p>7 expressed an opinion for the plaintiff versus for</p> <p>8 the healthcare provider?</p> <p>9 A. It's probably 50 to 60 percent for the</p> <p>10 defendant and 40 to 50 percent for the plaintiff.</p> <p>11 Q. Do you work with a service that helps</p> <p>12 lawyers find expert witnesses?</p> <p>13 A. No.</p> <p>14 Q. Do you agree that it is important when</p> <p>15 you are offering an opinion in a, in a, serving as</p> <p>16 an expert witness that it is important to be</p> <p>17 independent?</p> <p>18 MR. KIRBY: Objection to form. You can</p> <p>19 answer.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. ROTH:</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. ROTH: Sure. Can we go off the</p> <p>2 record then?</p> <p>3 (Recess taken -- 10:25 a.m.)</p> <p>4 (After recess -- 10:27 a.m.)</p> <p>5 BY MR. ROTH:</p> <p>6 Q. What I was asking about, do you know</p> <p>7 how --</p> <p>8 MR. ROTH: Mr. Kirby, do you have Exhibit</p> <p>9 2 in front of you?</p> <p>10 MR. KIRBY: Exhibit 3. Yes, Exhibit 3.</p> <p>11 MR. ROTH: I'm sorry, it is Exhibit 3.</p> <p>12 BY MR. ROTH:</p> <p>13 Q. Doctor, you prepared this report, and</p> <p>14 it's signed and dated October 14, 2016; is that</p> <p>15 correct?</p> <p>16 MR. KIRBY: Objection to form. You can</p> <p>17 answer.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. ROTH:</p> <p>20 Q. Okay. And this report contains the</p> <p>21 summary of your qualifications and the facts which</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Do you agree that when you are serving as</p> <p>2 an expert witness, it is important to be, you know,</p> <p>3 intellectually honest when you're expressing</p> <p>4 opinions to the court and to the jury?</p> <p>5 MR. KIRBY: Objection to form.</p> <p>6 THE WITNESS: Of course.</p> <p>7 BY MR. ROTH:</p> <p>8 Q. I assume you also would agree that it is</p> <p>9 important that the opinions that you form be based</p> <p>10 upon your own research, education, training and</p> <p>11 experience --</p> <p>12 MR. KIRBY: Objection to form.</p> <p>13 BY MR. ROTH:</p> <p>14 Q. -- is that correct?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. And the report that you</p> <p>17 prepared -- and I have a 23-page report, and your</p> <p>18 signature line stands alone on the last page, is</p> <p>19 Exhibit 3?</p> <p>20 MR. KIRBY: Hold on. Can you hold on for</p> <p>21 one second? We're going to grab that.</p>	<p style="text-align: right;">Page 21</p> <p>1 you gleaned from reviewing the material and the</p> <p>2 opinions that you are going to offer at trial; is</p> <p>3 that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. According to information we</p> <p>6 received yesterday from Mr. Kirby, and that is in</p> <p>7 the form of a, a drop box of information called Box</p> <p>8 Hill Bhambhani materials sent to Dr. Cohen, there</p> <p>9 is information that was updated and put in this box</p> <p>10 after October 14, 2016. Now, that may just be</p> <p>11 because of the software that they use, but did you</p> <p>12 review material regarding this case after you</p> <p>13 prepared your expert opinion that is signed October</p> <p>14 14, 2016?</p> <p>15 A. Yes.</p> <p>16 Q. And I'll ask this, but I expect I</p> <p>17 understand what the answer would be. Can you tell</p> <p>18 me what information you reviewed after you prepared</p> <p>19 your report?</p> <p>20 A. A variety of, of different depositions,</p> <p>21 including those of the second deposition of</p>

<p style="text-align: right;">Page 134</p> <p>1 every single patient, so they have to be prepared 2 specially.</p> <p>3 Q. I'm sorry, I missed that last part of 4 that. I apologize.</p> <p>5 A. So unlike steroids where every patient, 6 you know, basically gets the same preparation, 7 usually the same dose in the same form, for the 8 medications, the few medications that we order from 9 compounding pharmacies, everybody gets a different 10 mixture; therefore, they have to be ordered 11 separately by individual prescriptions.</p> <p>12 Q. Are you aware before the outbreak of any 13 rules and regulations that dictate how a physician 14 is to order medications that are compounded by a 15 pharmacy?</p> <p>16 MR. KIRBY: Objection to form and 17 foundation. You can answer.</p> <p>18 THE WITNESS: Before this outbreak, I was 19 not aware of, of those regulations. Those 20 regulations are really directed towards, towards 21 pharmacies, and I have enough --</p>	<p style="text-align: right;">Page 136</p> <p>1 as, you know, at Walter Reed. That information is 2 not, is never included in any lectures nor are 3 there any lectures at conferences.</p> <p>4 It's not -- before 2013, it was not 5 mentioned in articles or textbooks, so I would say 6 that it was not standard of care at that time, and 7 it may not be even standard of care at this time.</p> <p>8 BY MR. ROTH:</p> <p>9 Q. How did you learn how to write 10 prescriptions?</p> <p>11 A. I learned back in probably, you know, 12 internship from another doctor, maybe from a 13 resident.</p> <p>14 Q. Did you come to learn from reading 15 materials in this case how it is that Dr. Bhambhani 16 would order steroids from NECC?</p> <p>17 A. Yes.</p> <p>18 Q. What did you learn?</p> <p>19 A. That she sent NECC, because of their 20 requirements per the Federal Food Drug, Food, Drug, 21 and Cosmetic Act of 1938, because of NECC's</p>
<p style="text-align: right;">Page 135</p> <p>1 BY MR. ROTH:</p> <p>2 Q. Well, is that something --</p> <p>3 A. Sure.</p> <p>4 Q. I'm sorry, Doctor.</p> <p>5 A. I was saying I have enough difficulty 6 keeping up with all of the regulations that are 7 directed towards medical doctors.</p> <p>8 Q. Would you agree that the standard of care 9 would require a physician who is prescribing 10 medication to know the rules and regulations that 11 would apply to them in, in completing those 12 prescriptions?</p> <p>13 MR. KIRBY: Objection to form and 14 foundation.</p> <p>15 THE WITNESS: So I would say that that's 16 not standard of care because most people did not 17 know that before 2013.</p> <p>18 Also, as the, you know, head of the 19 division at Johns Hopkins, we probably have the, 20 the strongest didactic teaching program for any 21 pain medicine fellowship in the world, and as well</p>	<p style="text-align: right;">Page 137</p> <p>1 requirements, she gave them past patient lists of 2 patients that she anticipated would have epidural 3 steroid injections. She sent those to the, to the 4 pharmacy, and they, in turn, sent back medications, 5 and all of the medications were the same.</p> <p>6 Q. Where did you -- I'm sorry. I thought 7 you were finished.</p> <p>8 A. I was just saying, and that she ordered 9 some 1 cc and 5 cc's vials and 40 and 80 milligrams 10 per cc, but aside from those minor differences, all 11 of the medications that she used were the same. 12 And I learned about her practices from, you know, 13 from actually reviewing the records.</p> <p>14 Q. Do you -- I'm sorry. Every time I'm 15 about to ask you a question, it sounds like you're 16 going to add something.</p> <p>17 A. No. No. No. Ask.</p> <p>18 Q. Where did you learn that the requirement 19 that she provide a patient list came from the FDA?</p> <p>20 A. I think I had been reading material 21 pertaining to this case. It might have been a</p>

<p style="text-align: right;">Page 154</p> <p>1 with minimizing risks. And if you read -- and</p> <p>2 actually, this is, you know, Manchikanti's</p> <p>3 infection --</p> <p>4 Q. I don't think you've answered my</p> <p>5 question.</p> <p>6 MR. KIRBY: Hold on. Hold on.</p> <p>7 BY MR. ROTH:</p> <p>8 Q. Sorry.</p> <p>9 MR. KIRBY: You can't talk over him. The</p> <p>10 court reporter is typing it down.</p> <p>11 MR. ROTH: I can, I can if it's not</p> <p>12 answering my question.</p> <p>13 MR. KIRBY: Well, just finish your answer</p> <p>14 and then you can ask him --</p> <p>15 BY MR. ROTH:</p> <p>16 Q. My question --</p> <p>17 MR. KIRBY: Just finish your answer.</p> <p>18 MR. ROTH: Well, it's not responsive to</p> <p>19 my question.</p> <p>20 THE WITNESS: Well, you asked me if I was</p> <p>21 responsible for the policy, and so --</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Correct?</p> <p>2 A. Yes, I knew.</p> <p>3 Q. All right. Am I correct -- well, I</p> <p>4 shouldn't say it this way. Would the standard of</p> <p>5 care before this outbreak require that a physician</p> <p>6 know whether or not a vial they are using for</p> <p>7 multiple patients is a single or multi-use vial?</p> <p>8 A. I think that's something that most</p> <p>9 physicians would know.</p> <p>10 Q. Because if it's a single-use vial that</p> <p>11 you're going to reuse, there are certain</p> <p>12 precautions that should be taken to maintain</p> <p>13 sterility and reduce the risk of infection for the</p> <p>14 next patient, do I understand that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Doctor, who prepared your report that you</p> <p>17 signed and it was dated October 16th, October</p> <p>18 14th --</p> <p>19 MR. KIRBY: Objection.</p> <p>20 BY MR. ROTH:</p> <p>21 Q. -- 2016?</p>
<p style="text-align: right;">Page 155</p> <p>1 BY MR. ROTH:</p> <p>2 Q. No, I did not ask that.</p> <p>3 A. -- the policy --</p> <p>4 Q. I did not ask that. I asked whether you</p> <p>5 were one of the doctors who was following the</p> <p>6 directives of the Hopkins pharmacy folks when there</p> <p>7 was this shortage?</p> <p>8 A. Yes.</p> <p>9 Q. That was the question.</p> <p>10 A. I decide whether to implement this.</p> <p>11 Q. Okay. I think you explained the policy,</p> <p>12 and I understood it. That's why I was talking over</p> <p>13 you because I didn't think you were responding to</p> <p>14 my, to the question that I asked.</p> <p>15 In those circumstances where you decided</p> <p>16 whether or not you were going to reuse a vial, you</p> <p>17 knew, did you not, whether the vial was a</p> <p>18 single-use or multi-use vial?</p> <p>19 MR. KIRBY: Objection to form. You can</p> <p>20 answer.</p> <p>21 BY MR. ROTH:</p>	<p style="text-align: right;">Page 157</p> <p>1 MR. KIRBY: Objection.</p> <p>2 THE WITNESS: So I read the, you know,</p> <p>3 the information, and we discussed this. And I said</p> <p>4 these are the important things that, that I want to</p> <p>5 be included in the report, in the report, so it was</p> <p>6 a back-and-forth, you know, process between, you</p> <p>7 know, between the editing. It went back and forth</p> <p>8 probably a half dozen times before I agreed that,</p> <p>9 before we both agreed that this was a good report.</p> <p>10 BY MR. ROTH:</p> <p>11 Q. You testified you did not read the report</p> <p>12 of Dr. Manchikanti, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Did you read the report of Dr. Larkin?</p> <p>15 A. No.</p> <p>16 Q. We've talked about the need to be</p> <p>17 independent as an expert, and you agree with that,</p> <p>18 right?</p> <p>19 A. I agree.</p> <p>20 Q. And to do your own work?</p> <p>21 MR. KIRBY: Objection. I don't even know</p>

<p style="text-align: right;">Page 158</p> <p>1 what that means, but if you know, Doctor.</p> <p>2 BY MR. ROTH:</p> <p>3 Q. That you agreed, I thought, that as an</p> <p>4 expert coming into court, testifying under oath,</p> <p>5 expressing your opinion that you should be doing</p> <p>6 your own work. They should be your opinions,</p> <p>7 correct?</p> <p>8 MR. KIRBY: Well, objection to form.</p> <p>9 Whether they're his opinions or whether he did his</p> <p>10 own work, whatever that means I think is different,</p> <p>11 but if you can answer.</p> <p>12 MR. ROTH: Well, let --</p> <p>13 BY MR. ROTH:</p> <p>14 Q. Well, Dr. Cohen, do you understand -- do</p> <p>15 you understand what it means to do your own work?</p> <p>16 MR. KIRBY: Objection to form and</p> <p>17 foundation. You can answer.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. ROTH:</p> <p>20 Q. You understood when you signed this</p> <p>21 report that it was going to go to lawyers like me</p>	<p style="text-align: right;">Page 160</p> <p>1 reasonable equivalent to Depo-Medrol.</p> <p>2 Now, on this report that you signed,</p> <p>3 Doctor, can you tell us please who STOPNC is?</p> <p>4 MR. KIRBY: Yeah, and I'm just going to</p> <p>5 object.</p> <p>6 MR. ROTH: Excuse me, Mr. Kirby.</p> <p>7 MR. KIRBY: No, no.</p> <p>8 MR. ROTH: You can allow the witness to</p> <p>9 answer the question.</p> <p>10 MR. KIRBY: I'm perfectly within my</p> <p>11 right --</p> <p>12 BY MR. ROTH:</p> <p>13 Q. Do you know --</p> <p>14 MR. KIRBY: I'm perfectly within --</p> <p>15 BY MR. ROTH:</p> <p>16 Q. Do you know --</p> <p>17 MR. KIRBY: Wait.</p> <p>18 MR. ROTH: Mr. Kirby, please don't --</p> <p>19 MR. KIRBY: Go ahead. Go ahead and</p> <p>20 answer the question.</p> <p>21 MR. ROTH: Please don't answer.</p>
<p style="text-align: right;">Page 159</p> <p>1 who were going to review it and then ask you a</p> <p>2 bunch of questions about it, right?</p> <p>3 A. That's right.</p> <p>4 Q. Doctor, would it surprise you to learn</p> <p>5 that there are pages of your report that contain</p> <p>6 the exact same language as the report that was</p> <p>7 submitted by Dr. Manchikanti?</p> <p>8 A. Since I read his deposition, it would</p> <p>9 not.</p> <p>10 Q. Would it surprise you, Doctor, that it's</p> <p>11 not only the exact same language, but it also</p> <p>12 includes the same typographical errors?</p> <p>13 A. I didn't know that.</p> <p>14 Q. Do you know what STOPNC is?</p> <p>15 A. No.</p> <p>16 Q. Well, do you have your report before you?</p> <p>17 A. Yeah.</p> <p>18 Q. Turn to page 11. The last sentence on</p> <p>19 page 11 reads, All of these factors support the</p> <p>20 conclusion that it was reasonable and appropriate</p> <p>21 for STOPNC to purchase compounded MPA, which is a</p>	<p style="text-align: right;">Page 161</p> <p>1 MR. KIRBY: I'm perfectly within my right</p> <p>2 to object, so go ahead and ask.</p> <p>3 MR. ROTH: You can object, but you don't</p> <p>4 need to make a speaking objection.</p> <p>5 MR. KIRBY: I can object and state my</p> <p>6 reason. Go ahead.</p> <p>7 BY MR. ROTH:</p> <p>8 Q. Who is STOPNC?</p> <p>9 MR. KIRBY: Right, and I'm objecting on</p> <p>10 the basis of Rule 26 and the privilege of</p> <p>11 protections of the drafting process. I've said</p> <p>12 before it was a typo in previous depositions. If</p> <p>13 you know who STOPNC is, then you can say.</p> <p>14 MR. ROTH: That's great. Thank you,</p> <p>15 Mr. Kirby.</p> <p>16 BY MR. ROTH:</p> <p>17 Q. Doctor, do you know --</p> <p>18 MR. KIRBY: Doctor, he can still answer</p> <p>19 the question as to whether he knows who STOPNC is.</p> <p>20 I don't know if he does or not.</p> <p>21 THE WITNESS: Box Hill Pharmacy.</p>

<p style="text-align: right;">Page 162</p> <p>1 BY MR. ROTH:</p> <p>2 Q. Do you know who STOPNC is? I'm sorry?</p> <p>3 A. Box Hill Pharmacy.</p> <p>4 Q. STOPNC is Box Hill Pharmacy, is that your</p> <p>5 testimony?</p> <p>6 A. I don't know for sure.</p> <p>7 Q. Have you seen that STOPNC anywhere in</p> <p>8 their records?</p> <p>9 A. I have not.</p> <p>10 Q. Have you seen that anywhere or read that</p> <p>11 anywhere in the testimony of Dr. Bhambhani,</p> <p>12 Mr. Vickers or any other witness in this case?</p> <p>13 A. I have not.</p> <p>14 MR. ROTH: Doctor, right now I don't have</p> <p>15 any other questions. Rather than have us wait any</p> <p>16 more, I'll let Mr. Mintzer ask questions, if he has</p> <p>17 any, and I can check my notes while he does that.</p> <p>18 EXAMINATION</p> <p>19 BY MR. MINTZER:</p> <p>20 Q. Hi, Doctor. How are you?</p> <p>21 A. Good. How are you?</p>	<p style="text-align: right;">Page 164</p> <p>1 whatever it takes to, for me to help you understand</p> <p>2 the question that I'm asking you if you can, okay?</p> <p>3 A. Yes.</p> <p>4 Q. Can you tell me now how much time you</p> <p>5 spend in your administrative roles as opposed to</p> <p>6 treating patients?</p> <p>7 A. So there is a, a lot of overlap</p> <p>8 because -- so I have -- you know, my clinical</p> <p>9 trials are research, but I see regular patients,</p> <p>10 you know, who might have back pain. Most of them</p> <p>11 are not eligible for a clinical trial, so I</p> <p>12 continue to treat them but at the same time, I'm</p> <p>13 screening patients. So more than half of my time</p> <p>14 is spent doing clinical work rather than, you know,</p> <p>15 administrative work or clinical research.</p> <p>16 Q. For how long going back has that been the</p> <p>17 case?</p> <p>18 A. I've always spent the majority of my time</p> <p>19 seeing patients.</p> <p>20 Q. Now, you described it as more than 50</p> <p>21 percent. Has it always been that way, more than</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Are you ready? Are you okay to continue</p> <p>2 right now, or do you want to take a five-minute</p> <p>3 break and get started, or are you ready to go?</p> <p>4 A. I'm okay.</p> <p>5 THE COURT REPORTER: Actually, can I take</p> <p>6 a quick bathroom break?</p> <p>7 MR. MINTZER: Sure.</p> <p>8 (Recess taken -- 2:38 p.m.)</p> <p>9 (After recess -- 2:46 p.m.)</p> <p>10 BY MR. MINTZER:</p> <p>11 Q. Dr. Cohen, my name is Glenn Mintzer. I</p> <p>12 represent some of the other Plaintiffs in the case,</p> <p>13 and I'm going to be asking some follow-up</p> <p>14 questions.</p> <p>15 I'm going to tell you right now that it</p> <p>16 is not my intent to confuse you at all, but not to</p> <p>17 tread over ground that's already been asked to a</p> <p>18 large extent, I'm going to sort of hop around a</p> <p>19 bit. It's more likely I'll confuse myself than</p> <p>20 confuse you, but if I do, please stop me as you</p> <p>21 have through the deposition, ask me to clarify,</p>	<p style="text-align: right;">Page 165</p> <p>1 50, but not quite 60 or 70? And if you don't know,</p> <p>2 that's fine. I'm just trying to get as best an</p> <p>3 answer as I can.</p> <p>4 A. It's always ranged between more than 50</p> <p>5 percent. Usually between 60 and 80 percent.</p> <p>6 Q. During what time in your career was it 80</p> <p>7 percent where you were more clinical as compared to</p> <p>8 your research activities?</p> <p>9 A. Well, I guess when I was a fellow and I</p> <p>10 was in the Army, even when I had been, you know,</p> <p>11 chief of anesthesia and operative services in Korea</p> <p>12 and in Germany, I still spent, I probably spent, I</p> <p>13 spent over 80 percent of my time clinically, and</p> <p>14 then when I first arrived at Johns Hopkins in 2004,</p> <p>15 it was probably 70 to 80 percent clinical, and then</p> <p>16 it's trended down a little bit since then.</p> <p>17 Q. So you make a disparity between clinical</p> <p>18 and research. Is there also time that you spend on</p> <p>19 administrative activities, or do you lump that into</p> <p>20 the research number?</p> <p>21 A. You know, it's separate, and it's very</p>